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Land Rights of the Slavey Indians at Hay River, N.W.T.[1]

This essay discusses the provisions of Treaties Eight and Eleven for the Athabascan peoples of the Mackenzie River drainage. The practical consequences of unfulfilled treaty provisions are considered for the Mackenzie peoples, especially the Slavey Indians of the lower Hay River and the southern shore of Great Slave Lake. I hope to show that the amibiguous status of Mackenzie treaty lands is a bar to the social and economic development of Indian settlements.

On July 25th. 1900, headmen of the Dogribs, Yellow Knives, Cariboo-eater Chipewyan and Hay River Slaveys signed an "adhesion" to Treaty Eight, which had been made the summer before with the Indians of what was then the Athabasca District of the Northwest Territories (Treaty Commissioners, 1901; 24-25). Twenty-one years later, Slavey, Loucheux and Hare headmen in the major Mackenzie River settlements signed Treaty Eleven (Treaty Commissioners, 1926: 8-10). Athabasca became northern Alberta, and reserves were laid out there as provided in Treaty Eight. No reserves have been set aside north of Alberta, though Treaty Eleven undertook to "lay aside reserves for each band . . . not to exceed one square mile for each family of five" (op. cit. p. 6; cf. Treaty Eight, p.12).

Although the Commissioners conferred only with peoples of the Mackenzie River and Great Slave Lake, all of the Northwest Territories west of Coronation Gulf was considered to be ceded to the Crown. All the Mackenzie drainage peoples ceded their aboriginal lands, and none acquired treaty lands.

Let us consider the practical consequences of the ambiguous tenure in tribal lands as it affects in particular the Slavey Indians of the Lower Hay River.

In the nineteenth century, the principal settlement of the present-day lower Hay River Slavey was on Buffalo Lake in what is now Wood Buffalo National Park.

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Members of this band spent their summers on the southern shore of Great Slave Lake, often camping near the mouth of the Hay River. In 1893, St. Peter's Anglican Mission was established on the east bank of the Hay River, within sight of Great Slave Lake. The settlement around St.Peter's came to include an Anglican residential school and Indian hospital in 1896, and a Hudson's Bay post in 1905. Slavey headmen evidently left from this settlement in 1900 to sign Treaty Eight at Fort Resolution (Treaty Commissioners, 1901: 24). By the 1920's, a White and Metis village had started on Vale Island, across Hay River from the Slavey settlement around St. Peter's. A picture from the Mission's files shows a White shanty-town (the present-day municipality of Hay River) facing the Indian village's whitewashed houses and neat gardens.on the opposite bank.

H.A.Conroy, Commissioner of Treaty Eleven, had observed that the Athabascan headmen "seemed afraid that . . . if the treaty was signed, they would be confined on the reserves" (Treaty Commissioners, 1926; 3). This sentiment appears to have persisted for some time, and evidently it led the government to defer setting up reserves, at Hay River as elsewhere in the Mackenzie region. Even by 1959, the Nelson Commission stated categorically of the Mackenzie peoples: "They definitely do not want to live on reserves" (Nelson, 1959:4). In view of these sentiments, the Nelson Commission, appointed to investigate the unfulfilled provisions of Treaties Eight and Eleven recommended that no reserves be set up in the Mackenzie District. Instead, cash settlements of $20 dollars per acre were to be made to the bands in lieu of their land entitlements under the treaties (op.cit., p.7). In addition, native Mackenzie peoples were to receive one-half per cent of oil and mineral royalties paid the crown

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for that portion of the Northwest Territories covered by Treaties Eight and Eleven (ibid). The Commission found for cash settlements rather than reserves because "Indian reserves belong to a past era in Canadian history" (p.5). As for land rights, Indians were to receive only "Title in fee simple to the plots of land on which they now reside"(p.7).

It is by no means certain, however, that reserves are an anachronism. They serve to protect areas for Indian homesites, woodlots, dog kennels, fish-drying sheds, and the like. There is hardly a place for these activities in the rectangular grid tract developments on small lots which are becoming increasingly White settlements in the Northwest Territories (e.g., in Yellowknife, Hay River, and Innuvik). This point seems lost on the Nelson Commission, with its finding against setting aside land for the future housing requirements of the Indians (p.7).

The pro-integration sentiments of Walter Nelson and his Commission are apparent. What is less apparent is how people in the fifteen villages Nelson visited felt about their treaty rights. The report notes that Indian sentiments expressed at the hearings were "often far from clear and were usually given with obvious reluctance" (p.4). This conclusion evidently does not hold for the views of White residents of the Mackenzie District. A paragraph in the report on the "Views of Non-Indians" (p.5) corresponds almost point for point with the Commission's own recommendations.(pp.6-7).

More insight into the views of the native Mackenzie peoples is given by the Report of the Indian Act Consultation Meeting, held in Yellowknife in 1968. These were meetings between Indian Affairs (DIAND) officials and spokesmen for 14 Mackenzie district bands. (Only Fort Liard

and Arctic Red River were missed out from the villages visited by Nelson in 1959.

These meetings were scheduled to discuss needed changes in the Indian Act, which was last consolidated in 1951. Considerable discussion was offered on specific sections of the Act, but it was soon apparent that Treaty rights were of overriding importance to most of the bands represented. As an unidentified delegate put it late in the conference, "changes to the Act required much more study and should be discussed after the land settlement" (p. 29, my emphasis). Many present at the meeting agreed with this sentiment; seven of the fourteen bands represented took positions on the issue of treaty lands settlement. Of these, four wanted reserves: Hay River, Ft. McPherson, Aklavik and Ft. Franklin. Victor Beyonne of Ft. Franklin expressed the views of these bands when he stated "People needed to know whether they owned the land they were on . . .(Whites are) coming into the Mackenzie to settle and the Indians are being pushed to one side" (p.27). Two band spokesmen -- from Ft. Simpson and Fort Smith -- spoke for cash settlements in lieu of treaty lands, while three bands -- Ft. Providence, and the Dogrib from Ft. Rae and Yellowknife -- affirmed the importance of the treaty lands issue but did not state a conclusion.

Throughout these meetings, the Hay River Band spokesman made the strongest representations in favor of reserves for Northwest Territories Indians. Raymond Sonfrère argued: "The Indian people of the Territories should take the land as (Treaty) compensation, since with the increasing population in Canada and the world, the coming problem will be land ownership" (p.20). Sonfrère's concern is reflected in his band's

recent experience with attempted White encroachment on their lands. White encroachment has expressed itself in a number of ways, most significantly perhaps in the effort to direct Slavey settlement from two villages on the east bank of the Hay River to the White municipality's "New Subdivision" on the west bank. Many band members, especially enfranchised individuals or descendants of marriages with other bands live in houses which evidently date from the Anglican mission's founding at the turn of the century. (A "New Village" was built nearby for families retaining treaty rights). A number of these families have applied for government-assisted housing. In a series of meetings in 1967, it became clear that the band expected the houses to be either in "New Village" or "Old" (mission) village (Tapwe, August 11, 1970). An Indian Housing Association Council was chosen to consider applications for the proposed new housing. The Council received 27 applications by August, 1969, with only three specifically for the New Subdivision, while eighteen families asked for housing on the east bank (ibid.). The Housing Association Council selected six families for new houses, all of whom wanted to live on the east bank. The White housing authorities decided otherwise, however. In a meeting held in August, 1969, the Indians were told that new houses must be built in the New Subdivision, which at that time held only one Slavey family. Another family, that of former Chief John Lamalice, had just returned to the east bank. (Chief John's wife had complained that she could not smoke fish, dry moose hides, or grow potatoes in the Subdivision lot).

The significance of government efforts to move the Slaveys from their village became clearer in October, 1969, when the Northern Transportation Company announced its plans for land acquisition in the Hay

River area. In a letter to the Hay River Town Council, a Company superintendent discussed plans for a 100 acre docking facility on the east band of the river, between the New and old Indian villages (Tapwe, October 6, 1969). Although the letter disclaimed any intention to build the facilities "within the next twelve months", Tapwe reported that NTC crews were in possession of the 100-acre tract in early October (ibid.). The Northern Transportation Company is a Crown corporation which operates barges on Great Slave Lake and the Mackenzie River. Its demands on Slavey lands were seen by some as an abrogation of treaty rights. This point was stressed by Don Taylor, editor of Tapwe, who noted that the Department of Indian Affairs and Northern Development is charged both with protecting Indian rights and directing the NTC. Taylor asked rhetorically, "Where do you stand, Mr. (Minister) Chretien?" (op.cit.).

The NTC's crews were removed from the vicinity of the Indian villages, perhaps as a result of Taylor's angry editorial. There was little cause for jubilation on the part of the Slaveys, however. In April, 1970, the Hay River Town Council held a public meeting to present the findings of its town planners. The Council evidently views the east bank as the most suitable area for White residential and industrial expansion, due to persisting flood danger on Vale Island, the old center of town (Tapwe April 13, 1970). The east bank was to become available for development "within two years" as a result of "negotiations" with the INdians, the meeting was told (ibid.).

It is understandable, in the light of recent events, that the Hay River Slavey do not feel secure in the possession of their lands. Their winter village is part of Wood Buffalo National Park, while their former summer village is threatened by the proposed expansion of White industrial and residential facilities. Their villages on the

east bank have neither utility nor road connections with the White town of Hay River; evidently nothing will be done to make their tenure in the villages more secure. Such circumstances have brought home the need for a reserve, and recent political events have strengthened the resolve to demand one.

Recently, Donald Sonfrère replaced Edward Fabien as band Chief. Chief Sonfrère is the father of Raymond Sonfrère, who represented the band at the Indian Act Consultation meetings discussed above. The band is likely to press strongly for its land rights under Sonfrère's Chieftainship. A likely ally in pursuing this goal is the Indian Brotherhood of the Northwest Territories. In May, 1970, the Brotherhood's president Roy Daniels visited with leaders of the Hay River Band (Tapwe, May 25, 1970). A principal topic of discussion was said to be the need to secure Slavey land rights. Subsequently, President Daniels requested that the National Indian Brotherhood investigate the extent of Slavey land rights. The National Brotherhood was further requested to lobby for a stop to White development of 200 square miles of the band's aboriginal land use area -- the area bounded by Hay River, Great Slave Lake's southern shore, the Buffalo River and the Pine Point Highway. This area is somewhat larger than the band's treaty entitlement of one square mile per five band members -- 60 square miles for the 300- plus registered band members. On the other hand, it is doubtless smaller than the area in use aboriginally.

Before concluding, let me mention an additional difficulty in setting up a reserve under the present Indian Act: the need to provide for Slavey who are not entitled to be registered under the present Indian Act. Principally, these are women who have married Whites and Metis and their descendents, and men who have "enfranchised" themselves

and their descendents (DIAND, 1963, sec. 12b, 108). Many of those who live in the former mission settlement are unregistered Indians in this sense. Nevertheless, all these people are recognized as being Slavey and members of one community (Slobodin, 1966:18, concurs). A reserve would need to provide for them as well as the 300 registered Indians. This may be a small problem, however, as proposed revision in the Indian Act would permit bands to decide who belonged on band rolls (DIAND, 1969, p.12). This provision is essential in Hay River, since the White town contains a large number of Cree and Metis fishermen, most from northern Saskatchewan (Slobodin, 1966: 26, estimates 500 in 1962-63). The Slavey obviously need to secure their land rights against the Cree-Metis, as well as the Whites.

Indian reserves are often seen as bars to development. Heather Robertson (1970: 111-114) makes this point, especially for reserves on Prairie farmlands, and it is strongly put in the government statement on Indian Policy (DIAND, 1969). It cannot be said, however, that a reserve would impede economic development in Hay River. Quite the contrary might be argued. The Hay River Band will hardly permit White occupation of the east bank while their rights in that area are unprotected. And White occupation of the east bank based on forced relocation of the Slavey Indian band can hardly be called "development".

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